THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12327 of 2005

Dated: 25-07-2007

Between:

Cherukuri Chinamalakondaiah and others.

..... PETITIONERS

AND

The Revenue Divisional Officer, Guntur, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12327 of 2005

ORDER:

The petitioners are aggrieved by the proceedings of first respondent, namely, the Revenue Divisional Officer (RDO), Guntur, in R.C.No.1312/2005-A dated 17.05.2005, whereby and whereunder the assignment of the land admeasuring Acs.4.18 in survey No.1/4 (hereafter called, the subject land) situated at Gorantla Village, Guntur Mandal, granted in favour of one Badigam Yella Reddy, an ex-serviceman in 1986, was cancelled on the ground that he sold away the land in 1992 in violation of the orders of the Government Memo No.1117 dated 11.11.1993. By the impugned order, first respondent also observed that the land is proposed for construction of houses under Rajiv Gruha Kalpa scheme.

It is the case of the petitioners that each of them purchased land to an extent of about Ac.1.00 from Yella Reddy under registered sale deeds in 2002, obtained pattadar passbooks and title deeds, and are in possession of the land. First respondent, without issuing any notice, passed impugned order cancelling the assignment ignoring the Government orders, in particular G.O.Ms.No.743/93 dated 30.04.1993, by which an ex-serviceman, who was assigned land, can sell away land after a period of ten years. The petitioners also contend that they purchased land in 2002 and therefore, there is no violation of the conditions of grant.

This Court, while admitting the writ petition on 13.06.2005, granted interim suspension in W.P.M.P.No.15691 of 2005. Now the respondents 1 and 2 moved this Court by filing W.V.M.P.No.835 of 2006 seeking to vacate the interim order. At this stage, with the consent of both the learned counsel, the writ petition itself is heard finally and is being disposed of by this order.

A perusal of the impugned order dated 17.05.2005 would show that it was passed without giving an adequate opportunity to the petitioners to explain their case. Secondly the land was assigned in favour of Yella Reddy by second respondent, the Mandal Revenue Officer (MRO), Guntur, and against any order passed by MRO either assigning the land or cancelling the assignment, RDO is constituted as the appellate authority under BSO 15(15) of the Andhra Pradesh Board of Revenue Standing Orders. Therefore, it is not competent for RDO to exercise powers and jurisdiction of a revisional authority. In other words if the conditions of grant/assignment are violated, it is only MRO who can cancel such assignment. Therefore, impugned order is plainly unsustainable.

In the result, impugned order dated 17.05.2005 is set aside and the writ petition is allowed. The matter is remitted to MRO with a direction to issue notice to the petitioners, invite their explanation and pass necessary orders. No costs.

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(**V.V.S.RAO, J**)

25th July, 2007
ghn